



B-180368

District of British Columbia  
Division No. 03 - Vancouver  
Court No. .  
Estate No. 11-2375063

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF**

**JIZHE YANG**

**NOTICE OF APPLICATION**

Name of applicants: G. Powroznik Group Inc., Trustee of the Estate of Jizhe (Mary) Yang, a Bankrupt

TAKE NOTICE that an application will be made by the applicants to the presiding judge at the courthouse at 800 Smithe Street, Vancouver, BC on 08/Jun/2018 at 9:45 am, or at such other time as the court may order, for the orders set out in Part 1 below.

**PART 1: ORDERS SOUGHT**

1. An order that G. Powroznik Group Inc. be appointed as receiver (the "Receiver") of the PE Consulting Ltd., on the terms set out in the draft order attached as Schedule "A" to this Notice of Application (the "Receivership Order").
2. An order that Jizhe (Mary) Yang and anyone having possession of (i) the books and records of PE Consulting Ltd.; and (ii) the share certificate(s) for PE Consulting Ltd. and deliver them forthwith within seven days of delivery of a copy of the order.
3. An order that the Bankrupt disclose all books and records of PE Consulting Ltd. in her possession and all receipts, expenditures or payments, bank account records, computer programs and records, material emails, documents, and other key information related to PE Consulting Ltd. over the past four fiscal years.
4. An order that the Receiver shall administer a claims process as set out in the attached order.
5. An order restraining and enjoining the disposition of all of the bank drafts drawn in November 2017 which may be relied upon by the relevant financial institution and an order requiring delivery of any remaining bank drafts to the Trustee forthwith.

## **PART 2: FACTUAL BASIS**

### **The Parties**

1. On May 4, 2018, the Bankruptcy of Jizhe (Mary) Yang was effected. G. Powroznik Group Inc. was appointed as Trustee.
2. On July 22, 2011, Jizhe (Mary) Yang caused PE Consulting Ltd. to be incorporated. PE Consulting is a company incorporated pursuant to the laws of British Columbia, having its registered and records office at 500-5811 Cooney Road, Richmond, British Columbia
3. The sole shareholder and director was and still is Jizhe (Mary) Yang. She holds 100 Class "A" Common Shares (without par value). The minute book does not contain the share certificate for the 100 shares and the Bankrupt has not provided it on request.
4. The Respondents John and Jane Doe and Red Financial are individuals, the exact names and address of whom are unknown to the Petitioner and who, individually or collectively, have claims against or interests in the land.
5. Prima Technology Inc. ("Prima Technology") is the primary creditor of the Bankrupt having filed a Proof of Claim based on a judgment which could survive the Bankruptcy in whole or in part for \$13,348,682.47.

### **The Lands**

6. The primary asset of the PE Consulting Ltd. is land having the civic address 2791 Highview Place West Vancouver, British Columbia, and more particularly known and legally described as:

PID: 028-278-038

Lot 16 District Lot 793 Group 1 New Westminster District Plan BCP45164

The land has a BC Assessment value of \$8,240,000 and the total mortgages against the land are \$2,098,972. No one is currently living there. The applicant Trustee is of the view that the land was developed for sale.

### **Bank Drafts**

7. PE Consulting has the unusual practice of acquiring term deposits from financial institutions and holding them. In recent months, the Bankrupt has cashed bank drafts and the Trustee seeks to preserve them. Bank drafts are outstanding for the following amounts:
  - a. \$36,000 to Jizhe (Mary) Yang;

- b. \$80,000 to the Vancouver Bullion and Currency Exchange for the account of PE Consulting; and
- c. \$50,000 to Tian Li.

### **Seizure and Sale of Shares**

- 8. On November 29, 2017, Prima Technology Inc. was granted an order for the seizure and sale of the 100 Class "A" Common Shares, pursuant to a Writ of Seizure and Sale dated December 21, 2016.
- 9. On May 17, 2018, a letter was delivered by Accurate Court Bailiff Services confirming that there had been no completion sale of the 100 Class "A" Common shares in PE Consulting Ltd. such that the shares vest in the Trustee. The share certificate is not available.

### **Preservation of Assets**

- 10. The assets are predominantly the lands and the bank drafts.
- 11. The creditors are not fully known to the applicant as insufficient information has been provided to the applicant by Jizhe (Mary) Yang. Based on its present information, the Trustee anticipates creditors as follows:
  - a. secured debt: Bank of Montreal Mortgage, at May 25, 2018, was five months in arrears and totalled \$2,098,972. BMO and Ellis Roadburg have given notice under that Mortgage;
  - b. family creditors: The Bankrupt advises that there are loans in the amount of \$2,340,000 and that the loans were used to build the house. The Bankrupt has provided the following contact information: Address: 449-5525 W. Boulevard, Vancouver BC V6M 3W6, Contact person: Mary, Contact phone: 778-898-7199;
  - c. overseas creditors: (i) \$500,000. The Bankrupt has provided the following contact information: Address: c/o Huzhou Labor Road# 127 Jianan Building FL3 Huzhou, Zhejiang Contact person: Yang Xiao Ming, Contact phone: 13857262183 (ii) potential claim amount of \$2,000,000 plus interest. Address: c/o Luling Road 185-9-502, Xiamen, Fujian, Contact person: Lin Xiao Wei, Contact phone: 13606084573; and
  - d. Canada Revenue Agency: possible amounts due for Income Tax or GST.
- 12. On May 24, 2018, following the First Meeting of Creditors and at the Inspectors Meeting, it was resolved that the Trustee expeditiously proceed to petition the Court for appointing the Trustee as Receiver to secure, protect and maximize the

recovery of the assets of PE Consulting Ltd., for the general benefit of the creditors.

### **Preceding Litigation**

13. As at the date of this Petition, there are several outstanding legal proceedings involving the Respondents, or some of them, the Lands and the proceeds therefrom (the “**Concurrent Legal Proceedings**”). The Concurrent Legal Proceedings include the actions and petition proceedings described as follows:
- a. *Prima Technology Inc. v. Jizhe Yang also known as Mary Yang*, Action No. S-161440 – Vancouver Registry; and
  - b. *Prima Technology Inc. v. Jizhe Yang also known as Mary Yang*, Action No. S-178824 – Vancouver Registry; and
  - c. *Prima Technology inc. v Jizhe Yang also known as Mary Yang, Guoqiang Zhu also known as Samuel Zhu, Wentao Zhang, Jihong Yang and Luming Zhu*, Action No. S-150869 – Vancouver Registry.

### **The Receiver**

14. The Receiver, G. Powroznik Group Inc., and its managing director, Gary Powroznik, are licensed bankruptcy trustees and have extensive experience in dealing with complex claims against insolvent and/or bankrupt estates, contractors and real estate developments, including allowing and disallowing competing claims.

## **PART 3: LEGAL BASIS**

### **Preservation of Assets**

1. Rule 10 also provides for the preservation of any fund.

### **Appointment of a Receiver**

2. Rule 10-2 of the Rules of Court provides that the court may appoint a receiver in any proceeding either unconditionally or on terms.
3. Section 39 of the *Law and Equity Act* provides that a receiver may be appointed by an interlocutory order of the court in all cases in which it appears to the court to be just or convenient that the order should be made.
4. The jurisprudence supports the appointment of a receiver in circumstances such as these: *Capewell v. Her Majesty's Revenue and Customs*, [2007] UKHL 02; *B.C. Power Corp. v. B.C. (Attorney General)* (1962), 46 W.W.R. 513, 1962 CarswellBC 203 (S.C.).

5. Sections 47 and 243 of the *Bankruptcy & Insolvency Act* permit appointment of receiver and the test is the same for an equitable receiver but it may be that the preconditions to these sections have not yet been met. Based on notice from Ellis Roadburg to the Bankrupt, Bank of Montreal will issue its notice under section 244 of the *BIA* forthwith.
6. It would be just and equitable in the circumstances of this case within the test under section 39 of the *Law & Equity Act* to appoint a receiver. There are multiple competing creditors. Some of those claims would seem to be debt claims; and possibly equity claims.
7. A process needs to be established to identify all of the different claims against the assets, establish priorities and allocate proceeds.
8. The Receiver will preserve any rights in the term deposits.
9. The Trustee in Bankruptcy of Yang, and Prima Technologies Inc. - her largest creditor, which is also the largest creditor of PE Consulting Ltd., both consent to the appointment of the Receiver.
10. In the interim, it is preferable that the Lands be sold by way of an orderly process and that the proceeds be held in trust pending distribution.
11. In order to be able to fully assess the claims, the Receiver should have complete access to the books and records of the PE Consulting Ltd.
12. This application augments the preservation process in action No S 178824.

**PART 4: MATERIALS TO BE RELIED ON**

1. Affidavit #1 of Jeff Ayre, sworn 08/Jun/2018.
2. The order of Mr Justice Affleck entered November 28, 2017 in action Number S 178824

The applicant estimates that the application will take thirty (30) minutes.

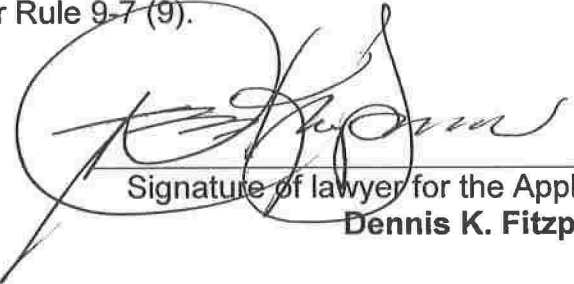
This matter is not within the jurisdiction of a master.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and

- (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).

Date: 8 /Jun/2018

  
Signature of lawyer for the Applicants  
**Dennis K. Fitzpatrick**